

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------------------|---|------------------------------------|
| DUANE BROCK THOMAS, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 21-1004 |
| |) | |
| v. |) | Judge Cathy Bissoon |
| |) | Magistrate Judge Cynthia Reed Eddy |
| SUPERINTENDENT CLARK, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On July 30, 2021, the Magistrate Judge issued a Report (Doc. 3) recommending that Duane Brock Thomas's 2254-habeas Petition be dismissed, and that a certificate of appealability be denied. Service of the Report and Recommendation ("R&R") was made on Petitioner, and no objections have been filed.¹

After a review of the pleadings and documents in the case, together with the R&R, Duane Brock Thomas's 2254-habeas petition is summarily DISMISSED for lack of jurisdiction; a certificate of appealability is denied; and the Magistrate Judge's R&R (Doc. 3) is adopted as the Opinion of the District Court.

IT IS SO ORDERED.

¹ The Magistrate Judge recommended dismissal based on lack of jurisdiction because Petitioner had not shown that he obtained leave from the United States Court of Appeals for the Third Circuit to file a second or successive habeas corpus petition. After the R&R was issued, Petitioner sought leave to file a second or successive petition, which the Third Circuit denied. Order, In re: Duane Thomas, No. 21-2604 (3d Cir. Oct. 4, 2021).

December 22, 2021

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

DUANE BROCK THOMAS
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